IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2007

CORAM:

THE HONOURABLE MR. JUSTICE S.PALANIVELU

Crl.O.P.No.22929 of 2007

M.Ramasamy ... Petitioner /Petitioner

Vs

F.Ramesh ... Respondent/Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the Judicial Magistrate No.III, Salem to grant a certified copies of all the documents filed by the complainant along with the private Complaint in C.C.No.63/03 on the file of Judicial Magistrate No.III, Salem.

For Petitioner : Mr.D.Shivakumaran

O R D E R

The petitioner is accused No.4 in C.C.No. 63 of 2003 on the file of the learned Judicial Magistrate No.III, Salem, which was instituted on the strength of a private complaint filed by the respondent for the claim of his dues.

2. While the above said case is pending, the petitioner filed a copy application on 26.06.2007 before the said Court for issuance of xerox copies of documents, viz., (i) Cheque bearing No.797084 alleged to have been issued by the 2nd accused; (ii) dishonour memo issued by Indian Overseas Bank, Chennai; (iii) Debit advice given by the complainant's bank; (iv) Postal receipt Nos.2; (v) Certificate of Posting; (vi) Acknowledgment Card signed by the 4th accused and (vii) Legal notice dated 08.08.2002, for the purpose of filing a quash petition before the High Court, Madras. The said application was returned by the learned Magistrate stating that since the documents were not marked and those documents are xerox copies, certified copies could not be issued.

3. The learned counsel for the petitioner placed reliance on the decision of this Court reported in (2003) 3 M.L.J. 211, (Nagarajan -VS- K.S.Ramasamy) wherein a learned Single Judge of this Court has observed

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that a party has the right to obtain a copy of any document produced in Court even though it is not marked in evidence. In the said decision, the learned Single Judge referred to the judgment reported in AIR 1985 Gujarat 112 (Jagatbhai Punjabhai Palkhiwala -VS- Vikrambhai Punjabhai Palkhiwala) and Rule 62 of Civil Rules of Practice and came to the conclusion that parties to the proceedings are entitled to get certified copies of documents, even though such copies are unmarked when they were produced before Court.

4. An identical view has been taken by a learned Single Judge of this Court in a subsequent case reported in (2005) 5 C.T.C. 91 (K.R. Sengottuvelu and others -VS- Karuppa Naicker and others).

5. The learned counsel for the petitioner also drew the attention of this Court in the case reported in 2006(4) C.T.C. 481 (Ramaiah -VS- R.Sudhakara Naidu), wherein the learned Single Judge has observed that if prayer for issuance of copies of unmarked documents is sought for, there is no necessity to issue notice to the respondent.

6. In the present case also, considering the nature of the relief, this Court decides that there is no necessity to issue notice to the respondent.

7. Considering the above said decisions, this Court is of the firm view that certified copies of the documents sought for by the petitioner can be granted by the lower Court. Accordingly, this criminal original petition is allowed. The learned Judicial Magistrate No. III, Salem, is directed to issue certified copies of the documents mentioned in the copy application dated 26.06.2007 to the petitioner.

bs/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Judicial Magistrate No.III, Salem.

2. -Do- Through The Chief Judicial Magistrate, Salem.

+1 cc to Mr.D.Shivakumaran, Advocate Sr.no.55139.

JRG(CO)
dcp/5.9

Crl.O.P.No.22929 of 2007

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